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LEGAL & GENERAL LIFE ASSURANCE SOCIETY,

10, FLEET STREET, LONDON, E.C. 4.

The Solicitors' Journal and Weekly Reporter.

(ESTABLISHED IN 1857.)

LONDON, SEPTEMBER 28, 1918.

ANNUAL SUBSCRIPTION, WHICH MUST BE PAID IN ADVANCE:
£1 10s.; by Post, £1 12s.; Foreign, £1 14s. 4d.
HALF-YEARLY AND QUARTERLY SUBSCRIPTIONS IN PROPORTION.

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Current Topics.

Reconstruction Reports.

WE CONCLUDE this week our summary of the Report of the Agricultural Sub-Committee of the Reconstruction Committee. Other Reports which we have summarised and commented on are those of Mr. LESLIE SCOTT's Committee on the Acquisition of Land for Public Purposes (*ante*, pp. 419, 436) and of Lord SUMNER's Committee on Liquor Purchase (*ante*, p. 516). Reports like these, unless they are soon translated into practice, have a way of being forgotten, but it may be hoped that the "Reconstruction" Reports will have a better fate. The test for them will come when the war is over, and the question has to be decided how far we shall go back in social and economical matters to the pre-war condition of things, or how far Reconstruction will have practical effect. That is a matter on which it would be unsafe to dogmatise. The social future must remain a matter of uncertainty, though it is quite possible that the changes will not be either so numerous or so thorough as is generally assumed. Meanwhile, we are glad to give such publicity as we can to Reports which are the result of great labour, and are in themselves extremely valuable. We may also call attention to the communications on questions relating to reconstruction in the legal profession, the second of which will be found on another page. The former—on Women as Solicitors—will be found on p. 782.

The New American Ambassador.

SINCE WE have sent Lord READING to the United States as "Ambassador Extraordinary" it seems not unfitting that a distinguished lawyer should come here to receive the welcome always accorded to the American Ambassador. From the earliest times of State intercourse ambassadors have stood in a particular position of honour and sanctity—a principle, we fear, just now lamentably violated in Russia, though how far the *de facto* Government is in a position to interfere to secure its observance we do not know—and if the dignity falls to lawyers we cannot be other than gratified. Mr. JOHN B. DAVIS, the new Ambassador, is Solicitor-General of the United States, and we read in the *Times* that he has filled this office with such distinction as to be regarded as the obvious candidate for the next vacancy in the Supreme Court. When we read also that he possesses great charm of manner and a wide and liberal outlook, and is just forty-five years of age, we conclude that he has a career of equal distinction before him in his new part.

Law Officers in the United States.

ACCORDING TO Lord BRYCE in his "American Commonwealth," the Solicitor-General there is a sort of assistant to the Attorney-General, and not, as in England, his colleague.

How this may be we do not know, but if, as we have seen stated, the Solicitor-General does the court work while the Attorney-General attends to the chamber practice, a case of equal partnership would seem to be made out. Lord BRYCE also states that the Attorney-General has a general oversight of the Federal judicial departments and prosecuting officers, which puts him to some extent in the position of a Minister of Justice. Perhaps there may be some help here for those who advocate a Ministry of Justice in this country. Clearly he has a position of great responsibility in advising the President on all matters touching the Federal executive powers, and the executive relations between the Federal and State authorities; and his opinions are frequently published officially as a justification of the Presidential view. Lord BRYCE adds that in England the opinion of the law officers is always treated as confidential. But we seem recently to have heard of an opinion as to the admissibility of women to Parliament being stated in the House of Commons; so there are exceptions to the rule.

The Statutes for the Year.

WE HAVE nearly concluded the printing of the more important of the statutes of the past session. There are altogether forty, dating from 19th March to 8th August. Those for the early part of the year—the Military Service (No. 2) Act, 1918 (c. 5), which extended the military age to fifty-one; the Increase of Rent, &c., Amendment Act, 1918 (c. 7), which protected tenants of small houses against purchasers; and the Defence of the Realm (Food Profits) Act, 1918 (c. 9), which added the forfeiture of double the excess profits to other penalties for selling food in excess of the maximum prices—are already well known. The Finance Act, 1918 (c. 15) contains some important changes, which we hope shortly to consider in detail; and similarly with regard to the Land Drainage Act (c. 17); the Naval Prize Act (c. 30); the Trading with the Enemy Act (c. 31); the Trade Boards Act (c. 32); the British Nationality, &c., Act (c. 38); and the Education Act (c. 39). The Solicitors (Articled Clerks) Act (c. 16) enables time spent with the forces to be reckoned as service under articles, and allows of exemption from the intermediate examination. The Parliament and Local Election Act (c. 22) makes further provision for the prolongation of Parliament and the postponement of local elections. The Juries Act (c. 23) limits jury trials in the various courts, extends from sixty to sixty-five years the age for jury service, and enables coroners' inquests to be held without a jury. It has effect during the continuance of the present war and for six months thereafter, but it will be interesting to see if the old right to a jury in civil cases is fully restored after the experience of the Act, and in view of recommendations made before the war for its curtailment. The Maternity and Child Welfare Act (c. 29) marks a substantial advance in the development of the law of public health, but it will, we imagine, not be allowed to hinder the fuller measure for the constitution of a Public Health Department which is under consideration. We have already noticed the Corn Production (Amendment) Act (c. 34) (*ante*, p. 781). It retains agriculture under the control of the Defence of the Realm Regulations, but gives at once a statutory right to compensation in lieu of an *ex gratia* allowance. The Income Tax (c. 40) is a measure of consolidation, with, we understand, only such amendments as consistency requires. It contains 239 sections and seven schedules, some of them lengthy. We regret that we shall not be able to include it in our print of the statutes.

Alteration of Sentence by Judge.

SIR SAMUEL MARTIN, one of the last of the Barons of the Exchequer, a learned and clear-headed judge, had a warm and compassionate temper, and there were many stories of how often he was induced by the supplications of the prisoner in the dock to reduce the sentence which he had passed upon him. A more recent instance of such indulgence appears in a case tried last week in the Central Criminal Court, where a married woman, the wife of a Russian, was found guilty

of receiving the proceeds of a forged cheque and was sentenced to a term of imprisonment in the second division. When, however, she had stated that she had four small children and had left them in the street that morning with no one to look after them, the Judge, according to the report, said that he was not going to allow her children to starve, and altered the sentence to a nominal one which enabled her to be discharged. So far as appears there was nothing to support the statement of the prisoner, and in any view there was no reason why she should go unpunished because she had a family of young children. There are no doubt strong reasons for doing nothing to interfere with the speedy administration of the criminal law, but we cannot but think that it would be better for the Judge to postpone passing sentence in many cases which come before him, so that a satisfactory inquiry might be made into the circumstances and into the antecedents of the prisoner. The kleptomania cases afford frequent examples of light or nominal sentences after hearing in the speeches of counsel *ex parte* statements as to the respectability of the prisoner. A question may also arise whether in the interest of the community at large some provision could not be made for the custody of the children of criminals during the detention of their parents.

Payment by Banker of Customer's Cheque after his Death.

BANKERS, in spite of all their precautions, occasionally cash the cheques of customers whose life has ended before the drafts are presented for payment. Is the banker in these circumstances entitled to treat the payment as duly authorized by the customer, and one for which his estate is liable? The question is an important one, considering the number of cheques drawn by officers on active service, but it is readily answered by a reference to section 75 of the Bills of Exchange Act, 1882. The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by "(2) Notice of the customer's death." The rule is in conformity with section 2003 of the French Civil Code, which enacts that an agency comes to an end by either the principal's or the agent's natural or civil death; but this is qualified by section 2008, which provides that, if the agent does not know of the principal's death, then what he does in ignorance that his authority has terminated is valid. But it is not in accordance with the ruling of Lord ELLENBOROUGH and the judges who sat with him in the Court of King's Bench in *Wallace v. Cook* (5 Esp. 118). In a case where money had been paid to a person who had a power of attorney from a sailor, Lord ELLENBOROUGH said: "There is no defence. The sailor having died in 1797, the death was a revocation of the power of attorney, and the subsequent payment was illegal." And in *Watson v. King* (4 Camp. 212), the Chief Justice said: "A power coupled with an interest cannot be revoked by the person granting it, but it is necessarily revoked by his death. How can a valid act be done in the name of a dead man?" These observations, and the argument that, if a tradesman is unwilling to run the risks arising from dealing with a married woman whose husband dies in a remote part of the world, he should require an express contract, are redolent of a period when the Courts paid scanty regard to public convenience.

Vexatious Actions.

IN A letter which we print elsewhere Mr. HARGRAVES questions the accuracy of the conclusion which we drew last week as to German proneness to litigation, and no doubt he is correct in saying that five million cases do not involve ten million separate litigants. The same person may appear as plaintiff in many cases, especially when the list includes, as we assume it does, small debt collecting cases. But assuming the German figure of five million cases for 1913 to be correct, the total of county court cases here for that year was just over a million and a quarter; or for all courts of first instance 1,353,637. Making the necessary adjustment for population, the proportion seems to be about half that in Germany, and since similar deductions should be made from

each figure we think it quite possible that the Kaiser's American dentist's generalization was fairly correct, though, of course, as a test of quarrelsomeness practically all the debt collecting cases must be eliminated. It is well known that much allowance must be made for the inherent fallaciousness of figures before reliable deductions can be drawn from them. But, for lawyers, the desire of the laity to ascertain and enforce their rights is not a bad thing, and if litigation abounds in Germany we presume the lawyers flourish.

The Report of the Committee on Agricultural Reconstruction.

V.

Small Holdings.—The existing law of small holdings is contained in the Small Holdings and Allotments Act, 1908. This empowers county councils, if so empowered by a scheme under the Act, to provide small holdings—that is, an agricultural holding of from one to fifty acres—"for persons who desire to buy or lease and will themselves cultivate the holdings." Schemes are prepared, on the report of the Small Holdings Commissioners, and settled by the Board of Agriculture after, in certain cases, a public inquiry. It is then the duty of the county council to carry out the scheme, and for that purpose they may either purchase or take or lease land within or without their county, by agreement, or, if necessary, by compulsion; but they can only acquire land at such price or rent that all expenses incurred will be recouped out of the purchase money or rent of land sold or let by the council. On a sale by the council the purchaser must provide at least four-fifths of the purchase money, and the residue may be secured to the council by a charge on the holding. The purchaser is subject to various restrictions, including a prohibition against assigning, dividing, or letting without the consent of the county council, and a tenant is subject to corresponding restrictions.

The report of the Committee discusses two questions affecting small holdings: (1) The relative advantages of such holdings and of large farms; and (2) the comparative merits of ownership and tenancy, the latter question being discussed as regards both forms of holding. As to productivity each form has its advocates, and the Committee, after stating the opposing views, say: "We do not think it necessary to take either side in the controversy, because we believe that no generalization on the subject can be safely or usefully made." And subsequently they continue: "We have no reluctance in expressing our opinion that both forms of holding are essential if the most is to be made out of the land and of country life."

We think this because, whatever the comparative productivity of food, there can be no doubt that there is no surer means of increasing the rural population, which is so greatly desiderated, than the multiplication of small holdings, and because small holdings are probably the most available rungs by which the agricultural labourer can mount the social ladder and become a farmer or landowner."

As to the second question, the statute, as we have seen, provides for both ownership and tenancy of small holdings; but in fact, we understand, it has in practice resulted almost entirely in the creation of small holding tenancies—whether it has done even this to a reasonable or sufficient extent is a matter on which we need not enter. And a practical objection is that, in order to comply with the provision that the purchase money paid by the council must be recouped out of the rent paid to them, the rent is fixed so as not only to give interest on the capital outlay, but also to create a sinking fund for the repayment of capital. Thus, at the end of the period provided for repayment of the loan made by the Treasury to the county council, the land becomes the land of the council, and not of the tenant whose money has purchased it. "This," says the report, "was felt to be a hardship on the tenant, and it was generally agreed that he should be excused the payment of a sinking fund if he was not himself as the result to stand possessed of the land. The

outbreak of war, however, interrupted the contemplated legislation to this effect." Subject to this criticism, the Report records the opinion of the Board of Agriculture that "the system is satisfactory and the schemes of the county councils generally may be regarded as a definite success." And for themselves the Committee say:—

"On the subject of ownership and tenancy our opinion is definite. Both systems of tenure are required in the national interest. Those small holders who prefer the position of tenants, either under the Scottish or English system, should remain or become tenants; but those who wish to become owners of the soil they till should have the opportunity given them of becoming owners on terms fair to themselves and to the State. We desire to emphasise the importance of this matter from the point of view of the sailors and soldiers demobilised after the conclusion of peace. What proportion of them will desire to settle on the land there is as yet no means of ascertaining with any approach to final accuracy, but that out of the millions involved a large number will turn their eyes towards the land there can be no doubt."

And the Committee desire that the Government here should make offers to attract these men to the land similar to those which are likely to be made by the Dominions overseas:—

"Those of them who aspire to become possessed of a portion of the land they have saved and for which their comrades have died, must have the opportunity of ownership given them on terms not less considerate than those offered by the State and Dominion Governments of the Empire. Those who wish to become tenants should have the opportunity of tenancy afforded them on equally considerate terms both by the State through the Board of Agriculture and through the councils of the counties to which, or the regiments of which, they belong. We cannot but regard it as most unfortunate that no steps have yet been taken to make it possible for the county councils to make preparation for the great demands which may be made upon them for small holdings directly after the conclusion of peace."

The difficulty in the way of ownership hitherto has been the requirement that the purchaser shall find one-fifth of the purchase money. Opinions have been expressed by competent authorities—including Sir TRUSTRAME EVE, whose opinion is supported by figures contained in Appendix X. to the Report—that since the mortgage is reducible, it stands, for purposes of security, on a different footing from an ordinary mortgage, and in his comments he says that, after long experience, it appears to him that the risk to the State in advancing the whole purchase money is absolutely nil. The Committee adopt this view, with the qualification that since, in the case of an entirely new occupation, the earlier years might prove the most difficult, the advantage of the loan of the whole of the purchase money should be limited to cases where the purchaser has been in occupation of the land for not less than four years; and they conclude:—

"Thus the existing smallholding policy of tenancy would receive its complementary completion by the offer of the alternative of ownership, and the tenant farmers would be given an opportunity, when occasion offered, of becoming the owners of the farms they cultivate. This boon has been granted to Irish farmers of every class, and we do not think that the farmers, agricultural labourers or farm servants, and discharged sailors and soldiers of Great Britain are less deserving of State assistance. The security in the case of Irish farmers has been proved to be ample; there are practically no arrears and there has been no loss to the State. We believe that the security in the case of English, Welsh and Scottish farmers would also prove to be good."

The Agricultural Holdings Acts.—The law as to agricultural holdings is mainly concerned with the security of the tenant in regard to improvements. The first statute was the Agricultural Holdings Act, 1875, which was extended by the Act of 1883 and other statutes. These have been replaced by the Act of 1908, and there are two short amending Acts of 1913 and 1914. In addition to providing compensation for unexhausted improvements, the Act of 1908 gives compensation for unreasonable disturbance (section 11, and see the Act of 1914); and for damage by game (section 10); and gives special protection to tenants of mortgagors as against the mortgagee (section 12); it modifies the harshness of the rule in *Elwes v. Mawes* (3 East, 38) as to fixtures (section 21); and of the rules as to distress (sections 28-31); it extends the customary half-year's notice from half a year to a year (section 22); it secures to the tenant freedom of cropping, subject to his making suitable and adequate pro-

vision against deterioration (section 26); it abolishes penal rents with certain exceptions, one exception being a penal rent reserved for breaking up permanent pasture; and it provides for arbitration as to matters of compensation; the reference being to a single arbitrator in accordance with the provisions of the second schedule to the Act. The Report discusses the operation of the Agricultural Acts in regard to most of the matters just referred to. As to compensation for improvements, this is based, under section 1 of the Act of 1908, on the "value of the improvement to the incoming tenant." Under the Act of 1875 it was the cost of the improvement, with a proportionate deduction for each year since it had been made. Subject to one observation, the Committee are of opinion that the principle laid down in the present Act is equitable and needs no amendment. That observation is, that it does not sufficiently take into account the cumulative fertility due to a system of high farming, beyond the recognized requirements of good agriculture, being followed over a lengthy period; and the Committee recommend that the Acts should be so amended as to make it clear that a claim for improvement of this character may be sustained, but for this purpose a record of the condition of the holding on entry and of operations during the tenancy would be essential.

Compensation depends, of course, upon the improvement in question being authorized by the schedules, and the Committee considered the suggestion that the schedules should be done away with, and that the tenant should receive compensation for everything which he has done to add to the value of the holding. But they are of the opinion that the adoption of such a proposal would tend to increase the likelihood of disagreement between the parties, and add to the expense of settlement. If the list of improvements comprised in the schedules is insufficient, they consider that point would best be met by an extension of the schedules. As to compensation for disturbance under section 11, it is said to be generally agreed that the compensation is insufficient in cases of capricious disturbance. The Committee are of opinion that in such cases the tenant might reasonably be allowed an additional year's profit, beyond that made during the year in which the notice to quit is running, in addition to the compensation for loss already allowed under the existing Act. In view, however, of the possibility of disagreement as to assessment of profits, they prefer to base the additional compensation to be allowed on the rent paid, and they recommend that section 11 should be altered accordingly.

The Committee make recommendations also as to damage by game, freedom of cropping, and disposal of produce; into the details of these it is not necessary to enter; and they make a number of suggestions for the amendment of the procedure for the assessment of compensation, and in regard to the notices which are required to be given under various sections of the Act of 1908. Those as to procedure include recommendations that no appeal should be allowed where the sum awarded does not exceed £100, and that all claims should be submitted in detail not later than one month after the determination of the tenancy. As to the qualifications of arbitrators, it has been objected that sometimes the persons appointed possess neither the educational nor professional qualifications necessary to enable them to deal properly with matters requiring a considerable amount of technical and judicial training. The Committee think, however, that it would not be practicable to limit the choice of either party in appointing his representative, but it is suggested that the Board of Agriculture might do much to raise the standard of those employed to make such valuations if it admitted to its list of persons eligible for appointment as single arbitrators only those who had achieved certain definite qualifications. They recommend this suggestion to the attention of the Board.

We must pass over the recommendations relating specially to market gardens. The Committee recognize that the Acts, even if amended as they suggest, may not give adequate security for the capital expenditure of tenants, and this they

regard as one of the reasons for promoting the increase of occupying owners through land purchase.

There are also sections of the Report devoted to redemption, local taxation, reclamation and drainage, deer forests, the elimination of pests and weeds, the supply of artificial manures, and transport. And not least interesting is the short section on "Village Reconstruction, Industries, and Social Life." The Committee's plan for dealing with this important subject is set forth in detail in Appendix XI., and we gather that it is based on suggestions made by Lord MILNER, Mr. R. E. PROTHERO, M.P., and Sir TRISTRAM EVE. The Committee are of opinion that the machinery of the parish council, the agricultural committee of the county, and the Board of Agriculture should be utilized for the purposes of village reconstruction, and that under proper conditions the necessary land should be acquired by compulsory powers if it cannot be acquired by voluntary agreement. A summary of their recommendations forms Appendix I. We may conclude this summary of one of the most interesting "Reconstruction" reports hitherto issued with the following sentence taken from the final observations:—

"The Corn Production Act has been passed as a war measure, and is therefore a temporary Act. We must renew our assurance with all the earnestness at our command that, unless after the war the principles of that Act are (with the necessary adjustment of details to the values and conditions of the time) embodied in a permanent statute, there can be no hope of the people of the United Kingdom becoming emancipated from dependence on supplies of foodstuffs brought from overseas, or of the increase of our rural population."

[Concluded.]

The Remuneration of the Solicitor.

[COMMUNICATED.]

ANY scheme of reconstruction affecting the profession that may follow the war must be concerned chiefly with the elevation of it, and on this account the question of costs invites examination. What the late Lord SALISBURY said in 1885 when speaking on this subject is no doubt a sentiment that still largely prevails. "Do you imagine that we are possessed by so inconceivable or monstrous a taste that we like paying lawyers' bills?" he asked, and proceeded, "Lawyers' bills are as odious to the squire as to any other member of the human race. I will venture to say there is no squire who would not gladly welcome any measure by which that great evil might be checked. But my experience is, having seen successive masters of the law address themselves to the great problem, and having seen my lawyer's bills concurrently increase by a steady ratio, I have become very sceptical of remedy in this respect." Though his lordship spoke with palpable exaggeration, yet it must be recognized that the relations of the solicitor with the public, in so far as they are impaired, are impaired very largely over the question of remuneration.

And herein lies an anomaly. For solicitors are officers of the Court, and, according to their place in the Judicature, they are as much officers of the court as the judges, masters, registrars, and others more especially recognized as such. But they differ in this respect. They are officers without pay. The Court exercises all the control of a paymaster over them, and, in the case of lapse, visits upon them punishment regarded more especially from the point of view of breach of discipline; but, so far as the Court itself is concerned, leaves them without remuneration. For the payment of its other officers it accepts responsibility, and presumably reimburses itself through court fees. But the solicitor, while holding allegiance to it as part of its personnel, is left to collect his own remuneration.

In thus avoiding a liability for payment that seems to be implicit in the relations of master and servant, the Court does not forego authority over the mode and measure of payment. On the contrary, under the Supreme Court Rules the cost of all proceedings are put in the discretion of the Court, and the Court has power to disallow costs in cases in which it considers they have been improperly incurred, or have been fruitless in their result. This is an unsatisfactory position. Why does the Court stop short of the point of consistency? Why does it not collect the costs itself in the form of fees as, constructively at least, it does in the case of its other officers, and out of them pay solicitors, being its officers too, a suitable remuneration? It would save a world of trouble and misunderstanding. It would rehabilitate the profession in a

direction in which it is most open to cavil; it would render the rank and file of its members proof against the vicissitudes of practice; and it would reduce the work of the Taxing Office and effect a saving of public money. It cannot be said that the work of the solicitor is unsuitable for treatment of this kind, for already we have what is known as the official solicitor who is paid by the Court, and solicitors attached to public bodies who are paid by stipend, and do not take the costs they earn. If some solicitors can be paid in this way, all can be so paid, and the distinction between a solicitor who is an official solicitor, and a solicitor who is an officer of the court, is in this connection purely artificial.

To bring about so fundamental a change in the status of our profession, however, would require sinews almost equal to those which HOMER gave ULYSSES, and we may therefore have to content ourselves with modifications, and accept in satisfaction a mere alleviation of our position. If our trouble with the public is to be traced to the question of costs, on examination it will be found that the offence of law costs lies in method more than in amount. They err where the public are most sensitive; they disregard the whole philosophy of thrift; and they leave the profession exposed to comment that is wholly undeserved when regarded in the light of the services rendered. And they do this in consequence of the system which the Court fixes on the profession in the making and rendering of charges.

It is well said that, if we take care of the pence, the pounds will take care of themselves. It is matter of common experience that, in dealing with persons who are successful in life, a greater regard is paid to outlay in small amounts than in big. A man who has become rich by his own exertions will lay out a hundred pounds freely when he will deny himself the expenditure of as many shillings or pence. And the reason is sound. A single breach in a good craft may lend itself to repair. The situation of it and its dimensions are apparent and the consequences of non-repair admit of control because no mistake can be made with regard to them. But a number of small punctures are, in their cumulative effect, as disastrous as the single leakage. And they are more dangerous because individually they tend to pass unnoticed or create no concern; and yet they denote a rotten structure, and tend to bring about a general collapse.

In the method of charging prescribed for us, we are compelled to disregard this elementary principle of economy. We are driven to attack the shillings and pence of our clients, and so bring down upon our heads the whole weight of offended thrift. The mistake of law charges, from the point of view of public satisfaction, lies in their petty detail; and, though there may be good reasons on the part of the Court for reserving to the public the right to particulars, there is no doubt that they furnish a ground of misunderstanding, and only too often, what is more serious, of inarticulate misunderstanding. Wisdom on this subject is to be found in consulting public susceptibilities, and in the remodelling of our system accordingly. Reform lies in the reduction, under the sanction of the Court, of the number of bills chargeable according to item, and in the extension of that system of fixed, scale, and lump-sum charges, and percentage and commission, which has already been introduced into our costs system, and has been found to work without detriment to the public welfare or our own interests. And in this the Court should help us, for we are its officers and our dignity and reputation are its own, and what reflects on us reflects on the Judicature as a whole. We are all members of one body, but the solicitor represents, as it were, the face of the profession, for the public come into touch with the law through him. With the Bar and Bench that lie behind, the public have no immediate contact; and so the view it takes of the law is coloured by its relations with the solicitor, and in consequence the whole system of the Judicature is brought into disrepute if those relations are impaired or grievances are allowed to subsist. The Taxing Office is a standing reproach to us, but it is even more a reproach to the Court; for the conditions of our remuneration that have made it necessary, if they are not the creation of the Court, are at least what the Court approves and what the Court neglects to reform.

And yet, in the way of change of system, we have already made a beginning. In the case of conveyancing the scale charge now obtains almost in its entirety. It is adopted in the form of a commission or percentage based solely upon the amount of the consideration passing or the rent to be paid, and irrespective of the character and magnitude of the work in particular cases, and leaving the practitioner to find redress in a general average of them. The system works satisfactorily; it provides us with that sovereign possession—the means to tell a client what a matter will cost; and the fact that it succeeds in the case of work presenting such contrasts and contingencies as conveyancing is of good promise for the success of the extension of the system to other fields. This extension was in fact promised by the Solicitors' Remuneration Act, 1881, which introduced the conveyancing scale, but so far the promise has not been kept.

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LAW COURTS BRANCH: 29 & 30, HIGH HOLBORN, W.C. 1.

It is in regard to litigation that the adoption of a scale is now more particularly to be desired. Already the system partially obtains even there. For actions that are summarily dealt with in the High Court earn a fixed scale charge. And in the case of an action that is fought out, the miscellaneous work of preparation for trial is covered by one item, "Instructions for Brief." This is in the nature of a scale charge since it varies according to the character and magnitude of the proceedings. These examples shew that there are tendencies toward a simplification of costs even in litigation itself, and it is felt that, if the established items in one period of an action admit of aggregation, established items in other periods admit of like treatment. Where law charges are expressed in detail, it is in most cases not due to any incompatibility that renders them proof against association, but rather to the fact that the process of grouping is as yet only partially developed. On that account, it is not too much to hope that the whole of the proceedings of an action admit of reduction to a scale, and that the general average of results in the case of litigation, as in the case of conveyancing, will prove acceptable to those concerned.

In contentious work there is, of course, the difficulty that not all actions are fought to a finish. Neither do all sales and purchases proceed to a completion. In cases in which they do not, payment for the work done is chargeable according to item, and the same mode of payment might be required in the case of the unfinished action. It is only sought to reduce the number of item bills. To abolish them altogether seems an impossibility.

Books of the Week.

Pleadings.—The Principles of Pleading and Practice in Civil Actions in the High Court of Justice. By W. BLAKE ODGERS, M.A., LL.D., K.C. Eighth Edition. Stevens & Sons (Limited). 15s. Juridical Review, September, 1918. W. Green & Son (Limited).

Correspondence.

Probate Vacancy—Vexatious Actions.

[To the Editor of the Solicitors' Journal and Weekly Reporter.]

Sir,—I presented administration papers on the 14th inst., and got the letters on the 19th September, 1918.

No question was raised on the Bond, which was dated the 6th inst.

The fact that five million petty cases were tried in the German Courts in 1913 does not prove that ten million Germans engaged in litigation. There probably were hundreds of plaintiffs issued by several plaintiffs. I know cases in this country where individual firms and companies are plaintiffs so often that they have or had their writs printed, and had many cases pending at one Court. A firm of coal merchants or travelling drapers may issue a thousand plaintiffs a year if their business be extensive.

E. T. HARGRAVES.

80, Coleman-street, London, E.C. 2.

24th September.

[We are obliged for this letter, the first part of which seems to dispose of the point raised in correspondence which we reprinted from the Times last week (*ante*, p. 795). As to the second point, see under "Current Topics."—Ed., S.J.]

New Orders, &c.

War Orders and Proclamations, &c.

The *London Gazette* of 20th September contains the following:—
1. An Order in Council, dated 20th September, making additions to the Statutory List under the Trading with the Enemy (Extension of Powers) Act, 1915, as follows:—Brazil (3), Chile (4), Denmark (2), Greece (1), Mexico (45), Morocco (4), Netherlands (2), Netherlands East Indies (7), Spain (9), Sweden (3).

2. A Notice that Orders have been made by the Board of Trade requiring the following five clubs or undertakings to be wound up:—

Geneva Institute, Limited; International Geneva Association of Hotel and Restaurant Employees; Geneva Association of Hotel and Restaurant Employees; Hotel and Restaurant Employees (Union Ganymede) Friendly Society; International Ganymede Club.

3. A Notice, dated 20th September, of Provisional Suspension of Prohibition of Entry into Tralee without Permission of the Commandant.

The *London Gazette* of 24th September contains:—
4. The Local Authorities (Fuel and Lighting) (Scotland) Order, 1918, made by the Secretary for Scotland on 18th September.

5. A further Notice that licences under the Non-Ferrous Metal Industry Act, 1918, have been granted to certain companies, firms, and individuals. The present list contains some 43 names.

Army Council Orders.

THE WOOLLEN AND WORSTED (CONSOLIDATION) AMENDMENT No. 4 ORDER, 1918.

Whereas by the Woollen and Worsted (Consolidation) Order, 1917 [*ante*, p. 215], as amended by Orders made by the Army Council on the twenty-third day of March, seventeenth day of May [*ante*, p. 554], second day of August [*ante*, p. 744], and the ninth day of September, 1918 [*ante*, p. 793], the Army Council regulated upon certain conditions the production of goods of which Wool, or any derivative thereof, or Mohair, Alpaca, Cashmere, or Camel-hair is a constituent part:

And whereas it is expedient that the said Order should be amended: Now therefore the Army Council hereby order that the Woollen and Worsted (Consolidation) Order, 1917, shall be amended as follows:—

1. In Clause 17 of the said Order as amended by the Woollen and Worsted (Consolidation) Amendment No. 2 Order, 1918, and the Woollen and Worsted (Consolidation) Amendment No. 3 Order, 1918, the words "exceeding the prices set out in Schedule 'B' hereto annexed" shall be substituted for the words "other than prices relative to the prices set out in Schedule 'C' annexed to the Woollen and Worsted (Consolidation) Order, 1917."

2. In Clause 18 of the said Order as amended by the Woollen and Worsted (Consolidation) Amendment No. 2 Order, 1918, and the Woollen and Worsted (Consolidation) Amendment No. 3 Order, 1918, the words "not being users of Waste" shall be inserted after the words "no person."

3. In Clause 19 of the said Order as amended by the Woollen and Worsted (Consolidation) Amendment No. 2 Order, 1918, and the Woollen and Worsted (Consolidation) Amendment No. 3 Order, 1918, the words "two preceding Clauses" shall be substituted for the words "preceding Clause."

4. Schedule I. hereto annexed shall be added to schedule "B" annexed to the Woollen and Worsted (Consolidation) Order, 1917, as amended.

5. Schedule II. hereto annexed shall be substituted for Schedule "C" annexed to the Woollen and Worsted (Consolidation) Order, 1917, as amended.

6. This Order may be cited as the Woollen and Worsted (Consolidation) Amendment No. 4 Order, 1918.

17th September. [*Gazette*, 20th September.

[Schedules of Prices of Waste, &c.]

WAR TIME BOOTS (MANUFACTURE AND SALE) ORDER, 1918.

[Recitals.]

1. It shall be the duty of all manufacturers of boots or shoes to comply strictly with any directions that may be given from time to time by or on behalf of the Director of Raw Materials, with a view to the production of War Time Boots or Shoes, notwithstanding any agreements that may have been entered into by such manufacturers prior to the date of any such directions.

2. No manufacturer of boots or shoes shall without a permit issued by or on behalf of the Director of Raw Materials manufacture or cause to be manufactured any War Time Boots or Shoes.

3. No manufacturer of boots or shoes shall manufacture or cause to be manufactured any War Time Boots or Shoes otherwise than to such specification as may be approved by or on behalf of the Director of Raw Materials.

4. It shall be the duty of all manufacturers of boots or shoes engaged

IT'S WAR-TIME. BUT—DON'T FORGET

THE MIDDLESEX HOSPITAL

ITS RESPONSIBILITIES ARE GREAT AND MUST BE MET.

in the manufacture of War Time Boots or Shoes to cause to be stamped upon the inside of the upper of each boot or shoe the registered identification number of the manufacturer thereof, and upon the sole of each boot or shoe the price approved by or on behalf of the Director of Raw Materials at the retail sale price in the case of each description of boots or shoes respectively together with the words "War Time."

5. It shall be the duty of all manufacturers of boots or shoes to give priority over all other work except work under or in connection with any Government contract or order to any order for War Time Boots and Shoes.

6. No manufacturer of boots or shoes shall sell any War Time Boots or Shoes at any price other than the price approved by or on behalf of the Director of Raw Materials as the manufacturers' sale price in the case of each description of boots or shoes, provided that discounts of 5 per cent. for cash payment within thirty days or 6½ per cent. for cash payment within seven days next following the date of the despatch of the goods shall be allowed on orders accepted for quantities of three dozen pairs of men's boots manufactured in accordance with one specification or four dozen pairs women's, girls', youths', or children's boots manufactured in accordance with one specification, and provided that discount of 1½ per cent. for cash payment within thirty days shall be allowed on orders accepted for quantities less than these.

7. Accounts.]

15. No War Time Boots or Shoes shall be sold by any manufacturer to any factor or merchant or by any manufacturer, factor or merchant to any retail dealer otherwise than upon the terms that all disputes arising in connection with any such sale shall be referred to the Director of Raw Materials or to such persons as he may cause to be appointed, whose decision shall be final.

16. For the purpose of this Order, the expression "War Time Boots or Shoes" shall mean any boots or shoes manufactured to such specification as the Director of Raw Materials may approve or direct, and sold upon such terms as may have been approved by him or on his behalf.

17. The Order made by the Army Council under the said Regulations, and dated the tenth day of November, 1917 [*ante*, p. 427], with regard to the manufacture and sale of War Time Boots and Shoes is hereby cancelled.

18. This Order may be cited as the War Time Boots (Manufacture and Sale) Order, 1918.

19th September

[*Gazette*, 24th September.

ISLE OF SHEPPEY AND ISLE OF GRAIN.

Whereas by Order dated the 17th day of August, 1916, and made under Regulation No. 29b of the Defence of the Realm Regulations, the Army Council, with the concurrence of the Secretary of State for Home Affairs, declared the Isle of Sheppey to be a Special Military Area for the purposes of the said Regulation,

And whereas it appears to the Army Council expedient to extend the said Area so as to include therein the Isle of Grain,

Now, therefore, the Army Council, with the concurrence of the Secretary of State for Home Affairs, hereby order and by such Order declares that as from the 23rd day of September, 1918, the area specified in the Schedule annexed hereto shall be substituted for the area specified in the Schedule annexed to the above-mentioned Order of the 17th day of August, 1916, and shall be a Special Military Area under the designation The Isle of Sheppey Special Military Area.

17th September.

SCHEDULE.

The Isle of Sheppey, that is to say the Rural District of Sheppey, the Municipal Borough of Queenborough and the Urban District of Sheerness.

The Isle of Grain, that is to say the parish of Grain in the Rural District of Hoo.

[*Gazette*, 24th September.

Board of Trade Orders.

NON-FERROUS METAL INDUSTRY.

The Board of Trade draw the attention of all companies, firms and individuals holding licences under the Non-Ferrous Metal Industry Act to the fact that these licences do not dispense the holders from complying with the Regulations which have been made under the Defence of the Realm Act with respect to the sale or purchase of non-ferrous metals. The necessary permits under these Regulations must be obtained from the Ministry of Munitions in respect of any sales or purchases of non-ferrous metals in the same manner as before the licences under the Act were granted.

LICENCES FOR METAL DEALING.

The Committee appointed by the Board of Trade to consider applications and to hear applicants for licences under the Non-Ferrous Metal Industry Act is meeting regularly and frequently during the recent. The Committee has now disposed of about 900 out of the total of 1,400 applications received, and the consideration of the remainder is being rapidly proceeded with.

Ministry of Munitions Orders.

THE SALE OF FLAX SEED (IRELAND) ORDER, 1918.

1. No sale of Flax Seed for sowing shall, without a permit issued by or on behalf of the Department of Agriculture and Technical Instruction for Ireland, be made by a wholesale dealer to a wholesale dealer, by a retail dealer to a retail dealer, or by a farmer to a retail or wholesale dealer.
2. No wholesale dealer shall sell or deliver any Flax Seed for sowing to a retail dealer at a price exceeding the actual cost price of such seed to the said wholesale dealer by more than 7s. 6d. per bag of 189 lbs., together with the actual cost of transport and an allowance in respect of such actual necessary charges as may be approved by or on behalf of the Department of Agriculture and Technical Instruction for Ireland, provided that no allowance shall be made in respect of commission paid or payable to agents in Ireland.
3. No retail dealer shall sell or deliver any Flax Seed for sowing to a farmer at a price exceeding the actual cost price of such seed to the said retail dealer by more than 10s. per bag of 189 lbs., together with the actual cost of transport, as may be approved by or on behalf of the Department of Agriculture and Technical Instruction for Ireland.
6. *Definitions.*
7. This Order may be cited as the Sale of Flax Seed (Ireland) Order, 1918.
8. The Sale of Flax Seed (Ireland) Order, 1917, and the Flax Seed (Control) Notice, 1917, are hereby cancelled.

[Gazette, 20th September.

THE FLAX SEED (SHIPMENT FROM IRELAND) ORDER, 1918.

1. No person shall, without a permit issued by or on behalf of the Minister of Munitions, make or take delivery for shipment from Ireland of any Flax Seed for sowing which has been previously imported into Ireland.
2. This Order may be cited as the Flax Seed (Shipment from Ireland) Order, 1918.

[Gazette, 20th September.

Food Orders.

THE CANNED MEATS (REQUISITION) ORDER, 1918.

1. (a) In pursuance of Regulation 2a of the Defence of the Realm Regulations, the Food Controller gives notice that he hereby takes possession of all canned meats of the kind specified in the Schedule hereto which are in the United Kingdom on the 31st August, 1918.
- (b) The provisions of this clause shall not apply to any canned meats owned by a person who at the close of business on the 31st August, 1918, does not own more than 100 cases in all of the kinds specified.
2. (a) In pursuance of Regulation 2r of the Defence of the Realm Regulations, the Food Controller requires all persons owning or having power to dispose of canned meats of the kinds specified in the Schedule which may arrive in the United Kingdom after the 31st August, 1918, to place at his disposal and to deliver the same to him or to his order.
- (b) The Arbitrator to determine in default of agreement the price to be paid for any canned meats requisitioned under the provisions of this clause shall as to canned meats arriving in England or Wales be appointed by the Lord Chancellor of Great Britain; as to canned meats arriving in Scotland by the Lord President of the Court of Session; and as to canned meats arriving in Ireland by the Lord Chief Justice of Ireland.
3. *Returns.*
5. *Title.*—This Order may be cited as the Canned Meats (Requisition) Order, 1918.

THE SCHEDULE.

		Sizes.
C. C. Beef	}	
Roast "		14's. 6's. 4's. 2's. 1's.
Boiled "		
C. C. Mutton	}	
Roast "		14's. 6's. 4's. 2's. 1's.
Boiled "		

THE SMALL AND ADDITIONAL ACREAGE ORDER, 1918.

1. *Exception.*—Notwithstanding the terms of any Order to the contrary it shall be lawful for—
 - (a) a person whose total acreage under cultivation in the year 1918 does not exceed, in England or Wales 1 acre, in Scotland 5 acres, or in Ireland 10 acres, to use the cereal crop (other than wheat) harvested on such land in the year 1918 for the purpose of feeding any livestock belonging to him.
 - (b) a person who in England or Wales has ploughed permanent grass land in excess of any amount of such land directed to be ploughed for cultivation in the year 1918 by any directions of the Executive Committee given prior to 9th March, 1918 (hereinafter called Excess Land), to use for the purpose of feeding any livestock belonging to him such part of his total cereal crop (other than wheat) harvested in the year 1918 as shall be certified by the Food Controller

to be equal in amount to the cereal crop (other than wheat) harvested on his excess land in the year 1918, provided that;

- (i) such person before ploughing such excess land shall have given particulars of the excess land to the Executive Committee; and
 - (ii) such person before ploughing excess land shall have obtained a Cultivation Order from the Executive Committee.
2. *Applications for certificates.*—Every application for a certificate of the Food Controller under Clause 1 (b) of this Order shall be made on such form as shall be prescribed.
 3. *Directions to be observed and information to be given.*
 4. *Saving.*—Nothing in this Order contained shall authorize the feeding of any livestock in contravention of the Horses (Rationing) Order, 1918.
 5. *Interpretation.*—For the purposes of this Order—

the expression "Executive Committee" in connection with any land shall mean the Executive Committee exercising any of the powers of the Board of Agriculture and Fisheries under Regulation 2a of the Defence of the Realm Regulations for the County or County Borough in which such land is situated.

The expression "permanent grass land" shall mean such land as has been grass land during the whole of the five years immediately preceding the date of this Order.
 6. *Title.*—This Order may be cited as the Small and Additional Acreage Order, 1918.

4th September.

THE TEA (LICENSING OF WHOLESALE DEALERS) ORDER, 1918.

1. *Licensing of wholesale dealers.*—A person shall not deal in tea by wholesale either on his own account or on the account of any other person:—
 - (a) after the 30th September, 1918, unless he has applied for a licence as a wholesale dealer in tea; or
 - (b) after the 21st October, 1918, unless he is the holder of a licence for the time being in force granted by the Food Controller authorizing him to deal in tea by wholesale.
6. *Title of Order.*—This Order may be cited as the Tea (Licensing of Wholesale Dealers) Order, 1918.

10th September.

TESTING OF SEEDS ORDER, 1918.

GENERAL LICENCE TO SELLERS OF WHEAT, BARLEY, OATS AND RYE FOR SEED.

The Board of Agriculture and Fisheries, the Board of Agriculture for Scotland, and the Department of Agriculture and Technical Instruction for Ireland, having been nominated by the Food Controller, jointly, as the Government Department by or under the authority of which licences under Clause 1 of the Testing of Seeds Order, 1918 [*The National Food Journal*, 10th July, p. 563], are to be issued, hereby authorize all persons concerned to sell wheat, barley, oats and rye for seed without declaring the particulars required by the Order to the purchaser at or before the time of sale or delivery, provided that such particulars are declared in writing to the purchaser either in an invoice of the seeds or in some other form, within one calendar month of the sale or delivery.

The following Food Orders have also been issued:—

- The Grocery Syrup (Distribution to Manufacturers) Order, 1918, dated 31st August.
- Order amending the Bacon, Ham and Lard (Prices) Order, 1918, dated 6th September.
- The Tallow and Dripping (Restriction of Export and Import) Order, 1918, dated 10th September.

War Damage in France and the British Isles.

We take the following from "Record No. 5" of the Committee on War Damage:—

An important measure dealing with the question of war damage is now before the French Parliament. It is of exceptional interest to the members of the Committee on War Damage, as it is intended to give, if possible, more complete effect to the principle of National responsibility for war damage than has hitherto been the case even in the French Republic, where the principle has always been accepted. The new measure has been rendered necessary because of the exceptional circumstances which have followed the great catastrophe which burst on Europe in 1914. The British Government having been appealed to by the Association of Great Britain and France, it is most satisfactory to learn that our Ambassador in Paris has received instructions in the matter which are in complete harmony with the reply given by the Prime Minister to the Committee on War Damage in July of last year. On

4th September the Chairman of the Committee wrote to Lord Robert Cecil, M.P., Assistant Secretary for Foreign Affairs, as follows:—

"In connection with the measure on the question of war damage now before the French Parliament, my Committee learn with much satisfaction of the instruction given to the British Ambassador in Paris, namely, that he inform the French Government that his Majesty's Government are prepared to enter into an agreement with regard to the reciprocal payment of compensation in respect of damage caused by the war, and to inquire in what form the French Government would desire such an agreement to be concluded. We understand that a similar agreement has been entered into by our Government with Belgium, and if it will not be contrary to the public interest, my Committee would be very glad to be furnished with a copy of this agreement, also copies of any similar agreements our Government may have made with other countries on the question of war damage."

Obituary.

Qui ante diem perlit,
Sed miles, sed pro patria.

Captain Richard Jocelyn Hunter.

Captain RICHARD JOCELYN HUNTER, London Regiment, who died on 25th August of wounds received the previous day, was the third son of Mr. Robert L. Hunter, of Lincoln's Inn, and 115, Eaton-square, and of the late Mrs. Hunter. Captain Hunter was educated at Horris Hill, Winchester, Harvard University, and B.N.C., Oxford, obtaining second-class honours in the Law School in 1909, and became a partner in his father's firm in 1914. Shortly after the outbreak of war he rejoined the London Rifle Brigade, in which he had previously served, and went to France on 26th April, 1917, when he was attached to the staff of the 55th Division, and subsequently joined a battalion of the London Regiment attached to the 47th Division, of which Sir D. Haig writes:—"It fought its way forward from Morlandcourt to St. Pierre Vaast Wood, which it cleared of the enemy, overcoming fierce hostile resistance." Captain Hunter was wounded while gallantly leading his men in a successful attack. A brother officer, referring to the incident, writes:—"Bravery was the immediate cause of his death; he spotted a Boche strong point and machine-gun nest, and made straight for it and tried to get round behind it . . . he was a splendid example to his men."

Captain Hunter married in 1914 Violet, daughter of Lieut.-Colonel C. F. Baines, J.P., of The Lawn, Shirehampton, who survives him, and by whom he leaves a son and daughter. His youngest brother, Lieut. H. Michael Hunter, 2nd Wilts Regiment, died of wounds received at Neuve Chapelle in March, 1915. His younger brother, Major Richard Hunter, D.S.O., the Camerons, and his elder brother Lieut. Kenneth Hunter, Coldstream Guards, are now serving at the front.

Legal News.

Honours and Appointments.

Major NORMAN McQUEEN, of the Argyll and Sutherland Highlanders, a member of the firm of Messrs. Christopher and Son, of 5, Argyll-place, Regent-street, London, W. 1, has been granted a bar to his D.S.O.

General.

A Reuter's message from Washington, dated 24th September, says:—The House of Representatives has approved the measure making national prohibition effective on 1st July next year. The Senate had already passed the measure. An amendment permitting the importation of wines until 1st May was rejected by the House, and importations of wines must, therefore, cease when the President signs the Bill.

A conference organized by the National Baby Week Council was held at Bedford College for Women, London, on 18th September, to inaugurate a campaign for the immediate establishment of a Ministry of Health. Dr. Eric Pritchard, Lord Willoughby de Broke, Dr. Saleeby, Mr. G. F. Blizard, and others expressed the desire of the council to create a strong public opinion to that effect. The council has already organized various meetings in the provinces. It is prepared to find speakers to represent it and to address such meetings, on application to the Secretary, 27a, Cavendish-square, London, W. 1.

A Reuter's message from Berne, dated 23rd September, says:—A conference was opened here to-day between German and United States delegates to deal with the exchange of prisoners of war. Among the American delegates are Mr. John Davis, the recently appointed United States Ambassador in London, and Mr. John W. Garret, United States Minister at The Hague. The Austro-Italian conference, which has been discussing the mutual repatriation of sick and wounded prisoners, the general treatment of prisoners of war, and the fate of the civil population in invaded districts on both sides, was formally closed to-day by the President of the Swiss Confederation, after an agreement had been signed.

A national association of agricultural landowners, the Central Landowners' Association, has, says the *Times*, been formed, with offices at 49-50, Parliament-street, S.W. 1. The new organization, which admits only owners of agricultural land, is an outgrowth of the Central Land Association, founded some ten years ago, which included land agents and farmers as well as owners. It is understood that the new association will nominate the landowners' representatives on the new National Agricultural Council. The association will also conduct an educational propaganda, and is publishing two brochures, entitled "The Redemption of Tithe Rent Charge" and "A Voluntary Scheme for the Settlement of ex-Service Men on the Land." Lord Selborne is the chairman of the association, and Mr. William A. Haviland is the secretary.

Representatives of the Federation of British Industries, of the National Alliance of Employers and Employed, and of Labour generally, says the *Times*, met in conference in London on Tuesday to consider a housing scheme on broad lines in districts where the matter is urgent. The scheme considered was unanimously adopted at a morning session, and in the afternoon it was laid before the executive of the National Alliance of Employers and Employed, which approved the action of its committee. The scheme favours support of Public Utility Societies and Housing Associations, to form an addition, and not an alternative, to municipal housing schemes. Contribution in the form of loan stock would do away with the system of tied houses under which tenants occupy premises owned by their employers. The scheme would enable small employers to combine in certain districts. It contemplated having on the committee of each Public Utility Committee representatives of the local trades unions, local employers, tenants, the municipalities, and social workers of the district. Model houses, gardens, allotments and means of recreation would be provided. The Conference agreed to ask Mr. Hayes Fisher to receive a deputation before the Government housing scheme is definitely adopted.

Mr. Hayes Fisher, President of the Local Government Board, says the *Times*, speaking at a conference of representatives of the county councils and local authorities of Cornwall, Devon, Dorset, and Somerset at Exeter on Wednesday, said that the State was wise in trying to form a partnership between itself and local authorities to solve the housing

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